

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

IN RE OCWEN LOAN SERVICING LLC
LITIGATION

This Document Relates to:

ALL ACTIONS

Lead Case: 3:16-cv-00200-MMD-WGC

Member Cases:

3:16-cv-00483-MMD-WGC

3:16-cv-00498-MMD-WGC

3:16-cv-00603-MMD-WGC

ORDER

I. SUMMARY

The four consolidated cases before the Court assert similar claims under the Fair Credit Reporting Act (“FCRA”) to challenge a loan servicer’s alleged practice of obtaining consumer credit information without authorization after the loans had been discharged in bankruptcy.¹ (ECF No. 47.) In each case, the loan servicer, Defendant Ocwen Loan Servicing, LLC’s (“Ocwen”), has moved to dismiss (“Motions”) based on lack of subject matter jurisdiction (*Marino*, ECF No. 23; *Horton*, ECF No. 18; *Farrin*, ECF No. 25; *Hardin*, ECF No. 27.) The Motions all raise the same issue — whether impermissibly obtaining a consumer’s credit information under the FCRA results in a concrete harm for purposes of Article III standing. Plaintiffs each filed responses to the Motions (*Marino*, ECF No. 25; *Horton*, ECF No. 26; *Farrin*, ECF No. 37; *Hardin*, ECF No. 31) and Ocwen filed replies in three of the cases (*Marino*, ECF No. 32; *Horton*, ECF No. 28; *Hardin*, ECF No. 34).

¹The lead case is 3:16-cv-00200-MMD-WGC (“*Marino*”). For citation purposes, the remaining member cases will be referred to as follows: 3:16-cv-00483-MMD-WGC is “*Horton*,” 3:16-cv-00498 is “*Farrin*,” and 3:16-cv-00603 is “*Hardin*.”

1 The Court issued a minute order on February 10, 2017, (*Marino*, ECF No. 61)
 2 requesting supplemental briefing in light of a recently decided Ninth Circuit opinion, *Syed*
 3 *v. M-I, LLC*, 846 F.3d 1024(9th Cir. 2017), that addressed procedural standing and
 4 statutory damages under the FCRA. The Court has reviewed the parties' supplemental
 5 briefs (*Marino*, ECF Nos. 62, 65).

6 In addition, the parties have filed several motions to supplement. (*Marino*, ECF
 7 Nos. 54, 60, 63.) The Court has reviewed these motions as well as responses thereto
 8 (*Marino*, ECF Nos. 56, 64, 67). All three motions are granted pursuant to Local Rule LR
 9 7-2(g).

10 For the reasons discussed below, the Motion in *Horton* is granted only with
 11 regards to the claim for negligent noncompliance with the FCRA. The Court will give
 12 Horton leave to amend to allege facts demonstrating a concrete injury and/or actual
 13 damages. The Motions in *Marino*, *Hardin*, and *Farrin* are denied.

14 **II. BACKGROUND**

15 Plaintiffs each bring a class action lawsuit against Ocwen based on almost
 16 identical factual allegations: each Plaintiff discharged in bankruptcy a prior loan that had
 17 been serviced by Ocwen, yet Ocwen continued, and possibly still continues, to obtain
 18 Plaintiffs' credit information from credit reporting agencies ("CRAs") without a legally
 19 permissible purpose and without Plaintiffs' authorization as required under the FCRA.
 20 See 15 U.S.C § 1681b. All Plaintiffs allege that Ocwen obtained their credit reports
 21 under false pretenses or knowingly without a permissible purpose, each willful violations
 22 under the statute. See §§ 1681n & 1681q.

23 Marino alleges that he discharged a mortgage loan that had been serviced by
 24 Defendant in Chapter 7 bankruptcy. (*Marino*, ECF No. 1 at 3.) After his relationship with
 25 Defendant ended, Marino did not seek credit of any type from Defendant, Defendant
 26 knew of the discharge of the loan, and Defendant obtained information from a CRA twice
 27 about Marino without his authorization. (*Id.*) Farrin's allegations are practically the same:
 28 Defendant knowingly accessed Farrin's credit report after his loan had been discharged

1 and did so without Farrin's authorization or a permissible reason as required under the
2 FCRA. (*Farrin*, ECF No. 1 at 3.)

3 Similarly, Horton asserts that his relationship with Ocwen was terminated after his
4 mortgage loan was discharged in bankruptcy. Horton also includes allegations that
5 Ocwen makes "batch" pulls of credit reports on a quarterly basis for "account review"
6 purposes, regardless of whether the consumer still maintains a relationship with them.
7 (*Horton*, ECF No. 13 at 4, 5.) Unique to Horton's complaint is a claim for negligent
8 noncompliance with the FCRA.

9 The complaint in *Hardin* presents similar but distinguishable factual
10 circumstances. While they similarly discharged a loan to secure a mortgage that
11 Defendant had serviced, the Hardins also allege that Defendant harassed them, invaded
12 their privacy, falsely reported their credit status, and violated their consumer protection
13 rights. (*Hardin*, ECF No. 2 at 2.) Defendant, however, is moving only to dismiss Count I
14 of their complaint —willful violation of the FCRA — which relates to the alleged
15 impermissible credit pulls conducted after discharge of the loan and after termination of
16 the Hardins' relationship with Ocwen. (*Hardin*, ECF No. 27-1 at 1.)

17 Ocwen's Motions assert that the Court lacks subject matter jurisdiction because a
18 legally impermissible pull of an individual's credit report does not give rise to a concrete
19 injury or actual damages that would give rise to Article III standing.

20 **III. DISCUSSION**

21 **A. 12(b)(1) Standard**

22 Rule 12(b)(1) of the Federal Rules of Civil Procedure allows defendants to seek
23 dismissal of a claim or action for a lack of subject matter jurisdiction. Dismissal under
24 Rule 12(b)(1) is appropriate if the complaint, considered in its entirety, fails to allege
25 facts on its face that are sufficient to establish subject matter jurisdiction. *In re Dynamic*
26 *Random Access Memory (DRAM) Antitrust Litigation*, 546 F.3d 981, 984-85 (9th Cir.
27 2008). Because Plaintiffs are invoking the court's jurisdiction, they bear the burden of
28 proving that the case is properly in federal court. See *In re Ford Motor Co./Citibank*

(*South Dakota*), N.A., 264 F.3d 952, 957 (9th Cir. 2001) (citing *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)). Furthermore, federal subject matter jurisdiction must exist at the time an action is commenced. *Mallard Auto. Grp., Ltd. v. United States*, 343 F. Supp. 2d 949, 952 (D. Nev. 2004).

Lack of standing is a defect in subject matter jurisdiction and may be challenged under Rule 12(b)(1). See *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). The standing doctrine has a constitutional and a prudential component. *Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 11 (2004) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559-62 (1992) (constitutional standing), and *Allen v. Wright*, 468 U.S. 737, 751 (1984) (prudential standing)). To satisfy the constitutional component — the issue Ocwen raised in its Motions — a plaintiff must meet three requirements: (1) the plaintiff must have suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Lujan*, 504 U.S. at 560-61. The plaintiff bears the burden of establishing these elements, *FW/PBS, Inc. v. Dallas*, 493 U.S. 215, 231 (1990), and must allege sufficient facts to demonstrate that each element has been met, *Warth v. Seldin*, 422 U.S. 490, 518 (1975).

B. FCRA

Congress enacted the FCRA in 1970 to protect consumer privacy by requiring CRAs to ensure the accuracy of information contained in credit reports and to limit the furnishing of those reports to statutorily enumerated purposes only. See *TRW Inc. v. Andrews*, 534 U.S. 19, 23 (2001). The statute was created in response to “concerns about corporations’ increasingly sophisticated use of consumers’ personal information in making credit and other decisions.” *Syed v. M-I, LLC et al.*, 846 F.3d, at 1037 (9th Cir. 2017) (citing the FCRA, Pub. L. 91-508, Section 602, 84 Stat. 1114, 1128). Given the growing importance of consumer credit and consumers’ lack of control over what information is contained in their credit reports, the FCRA intends to provide statutory protection for already recognized legal harms (albeit as applied to a new industry).

1 The FCRA provides that CRAs furnish consumer reports only under certain
 2 circumstances. Relevant to the Motions at issue here, CRAs may furnish consumer
 3 reports:

4 (a)(3) To a person which [the CRA] has reason to believe —

5 (A) intends to use the information in connection with a credit transaction
 6 involving the consumer on whom the information is to be furnished and
 7 involving the extension of credit to, or review or collection of an account of,
 the consumer or

8 [. . .]

9 (F) otherwise has a legitimate business need for the information —

10 (i) in connection with a business transaction that is initiated by the
 consumer; or

11 (ii) to *review an account* to determine whether the consumer
continues to meet the terms of the account.

12 15 U.S.C. § 1681b(a)(3) (emphasis added).

13 Violation of § 1681b(a)(3) may occur in three ways. First, a consumer's credit
 14 information may be obtained under false pretenses:

15 Any person who knowingly and willfully obtains information on a consumer from a
 16 reporting agency under false pretenses shall be fined until Title 18, United States
 Code, imprisoned for not more than 2 years, or both.

17 15 U.S.C. § 1681q. If a person is found to have obtained a credit report under false
 18 pretenses or knowingly without a permissible purpose, then the FCRA provides that a
 19 consumer may get “actual damages . . . or \$1,000, whichever is greater” (§
 20 1681n(a)(1)(B)), as well as punitive damages if the court allows (§ 1681n(a)(2)).

21 Second, a person may be willfully noncompliant with a provision of the FCRA (for
 22 instance by obtaining a credit report without a legally permissible purpose). If the person
 23 is found to have willfully violated the statute, then the person is civilly liable for “any
 24 actual damages sustained by the consumer as a result of the failure or damages of not
 25 less than \$100 and not more than \$1,000,” § 1681n(a)(1), as well as punitive damages
 26 as the court deems appropriate, § 1681n(a)(2). Additionally, if civil liability is established
 27 under § 1681n or § 1681q, then a successful consumer may receive the costs of the
 28 action and reasonable attorney's fees. 15 U.S.C. § 1681n(3).

1 Third, a person may be negligently noncompliant with any provision of the FCRA.
 2 15 U.S.C. § 1681o. In that event, the person must pay any actual damages sustained by
 3 the consumer as a result of the person's failure. 15 U.S.C. § 1681o(a)(1). Additionally, a
 4 successful consumer may receive the costs of the action as well as reasonable
 5 attorney's fees. 15 U.S.C. § 1681o(a)(2). As noted, only Horton brings a claim for
 6 negligent noncompliance.

7 **C. Standing to Assert Claim for Willful Noncompliance with the FCRA**

8 Ocwen relies on the Supreme Court's recent decision in *Spokeo v. Robins*, 136 S.
 9 Ct. 1540 (2016), to argue that Plaintiffs' allegations of "an unspecified invasion of
 10 privacy" resulting from alleged impermissible pulls of their credit reports is a mere
 11 "technical, procedural violation" of the FCRA and does not result in a concrete harm.
 12 (See, e.g., *Marino*, ECF No. 23-1 at 2.) Plaintiffs counter that their allegations that
 13 Ocwen obtained credit information without a permissible purpose or written their consent
 14 as required under the FCRA demonstrate harm to a substantive right — invasion of their
 15 privacy — and not a mere procedural violation. (See, e.g., *Marino*, ECF No. 25 at 6.)

16 In order to establish injury-in-fact, Plaintiffs must show that they suffered "an
 17 invasion of a legally protected interest" that is "concrete and particularized" and "actual
 18 or imminent, not conjectural or hypothetical." *Lujan*, 504 U.S. at 560. "Particularity"
 19 requires that an injury affect a plaintiff in a "personal and individual way," *id.*, or that the
 20 plaintiff "personally suffer some actual or threatened injury," *Valley Forge Christian*
 21 *College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472
 22 (1982). On the other hand, an injury is "concrete" if it actually exists; that is, if it is real
 23 and not abstract. *Spokeo*, 136 S. Ct. at 1548. The Supreme Court has found that an
 24 intangible injury, although difficult to recognize, can still be considered to be "concrete."
 25 *Id.* at 1549 (citing *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009) (free speech),
 26 and *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520 (1993) (free exercise)).
 27 While "Congress cannot erase Article III's standing requirements by statutorily granting
 28 the right to sue to a plaintiff who would not otherwise have standing," *Raines*, 521 U.S.

1 at 820, n. 3, Congress may “elevate to the status of legally cognizable injuries concrete,
2 *de facto* injuries that were previously inadequate in law.” 504 U.S. at 578. Thus, an
3 intangible harm may constitute a concrete injury where both history and the judgment of
4 Congress demonstrate a close connection to a harm traditionally found in English or
5 American lawsuits. *Spokeo*, 136 S. Ct. at 1491 (citing *Vermont Agency of Natural*
6 *Resources v. United States ex rel. Stevens*, 529 U.S. 765, 775-777 (2000)).

7 In *Spokeo*, Thomas Robins sued Spokeo, Inc., an alleged consumer reporting
8 agency that operates a “people search engine,” for publishing inaccurate information
9 about him. 136 S. Ct. at 1542. On appeal, the Ninth Circuit Court of Appeals found that
10 Robins had standing to bring suit against Spokeo. See *id.* at 1544-45. Specifically, the
11 Ninth Circuit held that Robins had adequately alleged injury in fact because he stated
12 that “Spokeo violated his statutory rights, not just the statutory rights of other people,”
13 and that “Robins’s personal interests in the handling of his credit information are
14 individualized rather than collective.” *Id.* at 1544. The Supreme Court reversed, finding
15 the Ninth Circuit’s standing analysis evaluated only particularization, not concreteness,
16 and was therefore incomplete.² The Court observed that “not all inaccuracies [in a credit
17 report] cause harm or present any material risk of harm.” *Spokeo*, 136 S. Ct. at 1550.
18 The Court identified as an example of a mere technical or “bare procedural violation,”
19 divorced from any other concrete harm, the reporting of an incorrect zip code in a
20 consumer’s credit report. 136 S. Ct. at 1550.

21 Ocwen relies on this example to argue that Plaintiffs’ bare factual allegations of
22 “invasion of privacy” resulting from the alleged impermissible pulls of Plaintiffs’ credit
23 reports do not meet the requirement of concrete harm. Ocwen also focuses on a lack of
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25 ²*Spokeo* does not hold, as Ocwen suggests, that a procedural violation cannot
26 pose any risk of real harm to satisfy the requirement of concreteness. The Court did
27 state that “[a] violation of one of the FCRA’s procedural requirements may result in no
28 harm.” *Spokeo*, 136 S.Ct. at 1550. However, the Court also clarified that “the violation of
a procedural right granted by statute can be sufficient in some circumstances to
constitute injury in fact. In other words, a plaintiff in such a case need not allege any
additional harm beyond the one Congress has identified.” *Id.* at 1549.

1 alleged actual damages in Plaintiffs' complaints and, further, contends that Plaintiffs do
2 not and cannot claim any actual damages that resulted from Ocwen's pull of their credit
3 reports. (*Marino*, ECF No. 23-1 at 2-3.)

4 In *Syed v. M-I, Inc.*, Plaintiff Syed applied for a job with Defendant M-I. M-I
5 provided Syed with a disclosure release, informing Syed that his credit history could be
6 collected and used to make an employment decision, that by signing the disclosure
7 release Syed authorized M-I to procure his consumer report, and that by signing the
8 release Syed waived all rights to sue M-I and its agents for violations of the FCRA. *Syed*,
9 846 F.3d at 1038-39. Syed alleged that M-I's disclosure release failed to satisfy the
10 requirements under 1681b(b)(2)(A) of the FCRA because the statute requires that the
11 disclosure document consist "solely" of the disclosure and not include a liability waiver as
12 well. *Id.* at 1039. Syed sought statutory damages, punitive damages, attorney's fees and
13 costs for M-I's willful noncompliance of the FCRA.

14 The Ninth Circuit found that Syed alleged more than a bare procedural violation
15 when he asserted that the disclosure release improperly contained a liability waiver. *Id.*
16 at 1040. There is no actual harm resulting from such a violation nor did Syed assert that
17 he suffered one. But the Ninth Circuit determined that the disclosure requirement found
18 at § 1681b(b)(2)(A) of the FCRA "creates a right to privacy by enabling applicants to
19 obtain the report from the prospective employer[] and a concrete injury when applicants
20 are deprived of their ability to meaningfully authorize the credit check." *Id.* Thus, the
21 disclosure requirement extends two well-established consumer rights to the credit
22 bureau industry: a right to know if a prospective employer is accessing your confidential
23 credit information and a right for applicants to withhold permission to access that
24 information. See *id.* These rights address the concrete injury that results when
25 consumers are deprived of their ability to meaningfully authorize a credit check. *Id.* The
26 Ninth Circuit held that in providing a private right of action for violations under 1681b(b),
27 Congress recognized the harm that results to consumers when they do not give consent
28 to purported credit pulls, even when the reason for the pull is permissible under the

1 statute. In addition, the Ninth Circuit observed that, based on the plain language of the
 2 FCRA, “statutory and punitive damages are available under the FCRA only where a
 3 defendant willfully fails to comply with the statute” and that the FCRA allows actual
 4 damages for negligent violations but provides for statutory and punitive damages for
 5 willful ones. *Id.* at 1044, 1045.

6 The Ninth Circuit’s reasoning applies here to support Plaintiffs’ argument that
 7 Ocwen’s alleged willful noncompliance with the FCRA results in concrete harm to a
 8 substantive right. The FCRA is clear that account review inquiries are permissible to
 9 determine whether the consumer *continues* to meet the terms of the account. 15 U.S.C.
 10 § 1681b(a)(3) The operative word in this provision is “continues,” which indicates
 11 Congress recognized that once an individual terminated her relationship with a lender it
 12 was no longer permissible for the lender to access the account (precisely because the
 13 lender would have no reason for doing so). Given that the FCRA was enacted
 14 specifically to combat unnecessary and unwanted invasions of consumer privacy and
 15 maintain consumer confidentiality in the credit bureau industry, Congress enumerated
 16 and clearly established specific permissible purposes for a reason. By restricting such
 17 improper credit inquiries, Congress recognized the concrete harm that is caused by such
 18 inquiries. Just as § 1681b(b)(2)(A)’s disclosure requirement “creates a right to privacy”
 19 and results in “concrete injury” when violated, credit inquiries that exceed the scope of §
 20 1681b(a)(3) —as alleged in the consolidated actions — invade a plaintiff’s right to
 21 privacy and result in concrete harm, thereby satisfying Article III standing.³

22 ³The Court finds Ocwen’s arguments in their supplemental brief (*Marino*, ECF No.
 23 62) to be unpersuasive. While the consolidated cases are not based directly on
 24 violations of the disclosure requirement under the FCRA, they *implicate* the disclosure
 requirement. As alleged, Ocwen failed to inform and gain consent to access Plaintiffs’
 credit reports after they had terminated their relationships with Ocwen.

25 Moreover, the Court is not persuaded by Ocwen’s cited decision in *Bultemeyer v.*
 26 *CenturyLink, Inc.*, No. CV-14-02530-PHX-SPL (D. Ariz. Feb. 15, 2017). (*Marino*, ECF
 27 No. 62-1.) That case is factually distinguishable. In *Bultemeyer*, the plaintiff initiated a
 28 potential business relationship with the defendant, an internet services provider. She
 provided information to the defendant in order to acquire discounted internet services
 and in doing so accepted particular terms and conditions. The plaintiff, importantly,
 sought out a relationship with the defendant and consented to the conditions required to
 (fn. cont...)

D. Standing to Assert Claim for Negligent Noncompliance with the FCRA

As noted, *Horton* is the only case that alleges an additional claim of negligent noncompliance with the FCRA. (*Horton*, ECF No. 13 at 12.) In its Motion in *Horton*, Ocwen argues that Horton’s allegations amount to a “technical violation of the FCRA — devoid of any particularized or plausible allegations of concrete harm — that solely focuses on whether Ocwen’s account review inquiries were permissible after Plaintiffs received a discharge.” (*Horton*, ECF No. 18 at 5.) Ocwen further points out that in Horton’s Amended Complaint, he describes actual damages as an unspecified invasion of privacy “entitling [class members] to an award of actual damages in an amount to be proved on a per pull basis” at trial. (*Horton*, ECF No. 13 at 12; *Horton*, ECF No. 18 at 6.) Ocwen’s argument overall is that reliance on statutory damages is insufficient to establish a concrete injury for purposes of standing and that Horton needs to allege actual, consequential damages resulting from the impermissible pulls in order to establish injury-in-fact. (*Horton*, ECF No. 18 at 7.) Ocwen extends this argument to both negligent noncompliance claims and willful noncompliance claims without any distinction between the two and makes the argument in all four Motions.

However, negligent noncompliance is distinguishable from willful noncompliance because the FCRA explicitly states that a successful consumer under a negligent noncompliant claim may receive actual damages. On the other hand, the section of the FCRA that addresses willful noncompliance presents two options: “any actual damages” sustained or “statutory damages.” See §1681n(a)(1). The statutory damage amounts are different depending on whether the violation is willful⁴ or whether it is done under false pretenses. These distinctions are relevant for purposes of establishing injury-in-fact. For

(...fn. cont.)

enter into that relationship, even though she subsequently changed her mind. In the consolidated cases, Plaintiffs terminated their relationships with Ocwen, revoking any prior consent they had given Ocwen to access their credit reports. Thus, Plaintiffs had a reasonable expectation of privacy that they allege Ocwen violated.

⁴The Supreme Court has held that “willful” includes both actions taken in reckless disregard of statutory duty and those known to violate the FCRA. *Safeco Ins. Co. v. Burr*, 551 U.S. 47, 56-57 (2007).

1 example, in *Syed*, the Ninth Circuit distinguished between the requirement that a plaintiff
2 allege actual damages for claims of negligent noncompliance and the requirement that a
3 plaintiff allege only that her consumer credit information was intentionally obtained
4 without a permissible purpose for claims of willful noncompliance. *Syed*, 846 F.3d at
5 1038. Allegations of negligent noncompliance require a lower burden of proof regarding
6 scienter than willful noncompliance. The FCRA reflects this difference in requiring that
7 the lower burden of demonstrating negligent noncompliance be balanced by a showing
8 of actual damages. By contrast, because intentionally and impermissibly obtaining a
9 consumer's credit information requires a higher showing of scienter, willful
10 noncompliance claims, if proven, are harmful in and of themselves and something the
11 FCRA aims to deter. If Plaintiffs can demonstrate that Ocwen intentionally (or with false
12 pretenses) obtained their credit information without a permissible purpose, receiving
13 statutory damages acts as a deterrent to future violations. By contrast, if Ocwen
14 incorrectly thought it had a permissible purpose in obtaining Plaintiffs credit information,
15 then the appropriate penalty would be the harm that actually resulted to Plaintiffs. In
16 other words, you cannot deter actions that are not knowingly taken.

17 In sum, the Court finds that Plaintiffs have satisfied Article III's standing
18 requirements with respect to their claim for willful noncompliance under the FCRA. The
19 statute explicitly provides a statutory damage amount to quantify a harm that is often
20 unquantifiable: the harm to consumer privacy and confidentiality that results when a prior
21 lender continues to access a consumer's personal information without any genuine
22 reason for doing so. Plaintiffs in *Horton* have not demonstrated any actual damages to
23 meet the requirement of standing to assert a claim for negligent noncompliance with the
24 FCRA.

25 **IV. CONCLUSION**

26 The Court notes that the parties made several arguments and cited to several
27 cases not discussed above. The Court has reviewed these arguments and cases and
28

1 determines that they do not warrant discussion as they do not affect the outcome of the
2 Motions.

3 It is therefore ordered that Defendant's motions to dismiss in *Marino*, *Farrin*, and
4 *Hardin* (*Marino*, ECF No. 23; *Farrin*, ECF No. 25; *Hardin*, ECF No. 27) are denied.
5 Defendant's motion to dismiss in *Horton* (*Horton*, ECF No. 18) is granted only with
6 respect to the negligent noncompliance claim. Horton may file an amended complaint
7 within thirty (30) days of this order to cure the negligent noncompliance claim under §
8 1681o to the extent Horton can allege a concrete injury and/or actual damages
9 sustained as a result of Ocwen's alleged negligent, impermissible pull of his credit report.
10 Regardless of amendment, all other claims across all four cases will proceed.

11 It is further ordered that the three additional motions to supplement (*Marino*, ECF
12 Nos. 54, 60, 63) are granted.

13 DATED THIS 3rd day of March 2017.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE